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Attorney's Docket No.: 13235-4002 / 00960-562DIVFWC

#394
9-25-02
DmJ

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Huston et al.
Serial No. : 08/014,096
Filed : February 4, 1993
Title : PRODUCT AND PROCESS FOR THE PRODUCTION, ISOLATION AND
PURIFICATION OF RECOMBINANT POLYPEPTIDES

Art Unit : Ulm, J.
Examiner : 1646

Commissioner for Patents
Washington, D.C. 20231

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Petition Under 35 CFR §1.129(a)

Applicants hereby petition under 37 CFR §129(a) to automatically remove the finality of the rejection mailed September 7, 2001. In support of their petition they point out that:

1. This case is currently pending, a Notice of Appeal having been filed on March 7, 2002 with a three-month extension of time.
2. This application is not an application for a reissue or a design patent.
3. This application had been pending at least two years as of June 8, 1995, taking into account the claim for priority made under 35 U.S.C. §120 to USSN 07/661,070 filed January 26, 1991 (abandoned) and to USSN 07/462,297, filed December 28, 1989 (now U.S. 5,013,653) and to USSN 07/028,484, filed March 20, 1987 (abandoned).
4. No appeal brief has been filed appealing from the current final rejection mailed September 7, 2002. {A brief was filed from an earlier final rejection (paper 24), but the Board of Appeals remanded the case to the Examiner for further consideration, resulting in a new ground for rejection in paper 31 (a non-final action mailed November 27, 2000) and a subsequent final rejection (paper 34 mailed September 7, 2001). No brief has been filed in support of an appeal from the current final rejection.}
5. No previous petition under 37 CFR 1.129(a) has been filed in this case.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

09/17/2002 SZEWDIE1 00000006 08014096

02 FC:146
03 FC:103

740.00 OP
18.00 OP

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, Washington, D.C. 20231.

9/17/2002
Date of Deposit

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Nerissa M. Paris
Typed or Printed Name of Person Signing Certificate

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6. A check in the amount of \$740.00 is enclosed as prescribed by 37 CFR §1.17(r) and authorization to charge a deposit account is provided below.

Accordingly, this application qualifies under 37 CFR §129(a) for automatic withdrawal of the finality of the rejection mailed September 7, 2001 and for entry and consideration on the merits of the following Amendment and Response.

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